

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDREW AVILA,

Plaintiff,

v.

FELDER, *et al.*,

Defendants.

No. 1:21-cv-01510-JLT-BAM (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION

(Doc. 19)

The assigned magistrate judge screened the First Amended Complaint and determined Plaintiff failed to state a cognizable claim upon which relief may be granted. (Doc. 15.) Despite Plaintiff's objections (Doc. 16), the court adopted the findings and recommendations in full and dismissed the case with prejudice for failure to state a cognizable claim upon which relief may be granted. (Doc. 17.) The Court entered judgment the same date. (Doc. 18.)

Currently before the court is plaintiff's motion for reconsideration, filed April 18, 2022. (Doc. 19.) Plaintiff purports to file the motion pursuant to Federal Rule of Civil Procedure 64, which sets forth available remedies under state law in a federal civil action, specifically relating to the seizure of a person or property. Fed. R. Civ. P. 64. Plaintiff also references "Trial Court Performance Standards," an unspecified stipulated written agreement, payment to the Court of some kind of process fee, a federal evidentiary hearing, and a breach of contract. (Doc. 19 at 1.) Plaintiff has attached a copy of the Court's October 28, 2021 Order of Clarification related to the

1 unavailability, at that time, of a District Judge to hear matters, (*id.* at 2–4), several handwritten
2 documents purporting to be proofs of service and a verification of a special master, (*id.* at 5–6),
3 correspondence from the Supreme Court of the United States in a case filed by another inmate,
4 (*id.* at 7), and a copy of instructions for filing a complaint in the Eastern District of California by
5 a prisoner, (*id.* at 8–10).

6 Based on the filing, it is difficult for the Court to decipher Plaintiff’s intention or the form
7 of relief he is requesting. Federal Rule of Civil Procedure 64 does not provide any mechanism
8 for requesting reconsideration, and none of the documents attached to Plaintiff’s request provide
9 any further information regarding the relief requested.

10 To the extent Plaintiff is requesting reconsideration of the Court’s final order and
11 judgment, Federal Rule of Civil Procedure 60(b) controls. Rule 60(b) permits a district court to
12 relieve a party from a final order or judgment on grounds of: “(1) mistake, inadvertence, surprise,
13 or excusable neglect; (2) newly discovered evidence . . . ; (3) fraud . . . of an adverse party; (4) the
14 judgment is void; (5) the judgment has been satisfied . . . or (6) any other reason justifying relief
15 from the operation of the judgment.” Fed. R. Civ. P. 60(b). Additionally, pursuant to this court’s
16 Local Rules, when filing a motion for reconsideration of an order, a party must show “what new
17 or different facts or circumstances are claimed to exist which did not exist or were not shown
18 upon such prior motion, or what other grounds exist for the motion.” Local Rule 230(j).

19 As noted above, the Court cannot determine the relief Plaintiff seeks. Even still, review of
20 the filing, reveals that Plaintiff does not present any new or different facts, circumstances, or
21 evidence related to this action that would support relief under Rule 60(b).

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Accordingly, Plaintiff's motion for reconsideration, (Doc. 19), is **DENIED**. This action
2 remains closed.

3
4 IT IS SO ORDERED.

5 Dated: **April 22, 2022**


UNITED STATES DISTRICT JUDGE